IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3426 OF 2005

Salman Salim Khan ..Applicant

Vs.

State of Maharashtra ..Respondents

Mr. S.V.Marwadi Advocate for Applicant
Mr. V.B.Konde-Deshmukh A.P.P. for the State

CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JUNE 10, 2005

P.C.

1. Heard both sides.

2. The applicant is seeking exemption from personal appearance in Case No. 490/SS/2005 (C.R.No. 326 of 2002 of Bandra (W) Police Station) which is pending before the learned Metropolitan Magistrate, 9th Court, Bandra, Mumbai.

3. The applicant had preferred an application for exemption from personal appearance in the said case before the learned Magistrate. The said application came to be rejected mainly on the ground that the identification of the applicants/accused by the witnesses is of utmost importance and hence, the exemption from personal appearance, cannot be granted to the applicants.

4. It is not the prosecution case that the applicant is likely to abscond or he will not be available for trial. It is stated by the learned advocate for the applicant on instructions that the applicant will not object to his identification in his absence. In view of this statement, I am inclined to grant exemption from personal appearance to the applicant. Thus, the applicant is granted exemption from personal apperance before the trial Court unless his appearance is considered absolutely necessary by the trial Court. It is made clear that if the trial Court is of the

opinion that the presence of the applicant is absolutely necessary, then, on notice being given to the applicant or to his advocate, the applicant shall remain present before the trial Court on that date.

4. Application is disposed of in above terms.

5. Office to issue authenticated copy of this order to the parties.

[V.K.TAHILRAMANI,J]